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Section III:

**AMENDMENT UNDER 37 CFR §1.121 to the
DRAWINGS**

No amendments or changes to the Drawings are proposed.

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Section IV:**AMENDMENT UNDER 37 CFR §1.121****REMARKS****Status of Second Appeal**

In the Office Action, applicant was notified of the examiner's decision to re-open prosecution of the patent application following the filing of a second Notice of Appeal and Appeal Brief, including notification of applicant's options to either reply to the new Office Action, or to request reinstatement of the Appeal. Applicant hereby replies to the new grounds of rejection.

Change of Examination Approach or Reorientation of Point of View of Previous Examiner, and USPTO Policy of Compact Prosecution

The approach or point of view of the previous examiner for this patent application, Primary Examiner Eric K. Nicholson, does not appear to be the same approach or point of view being taken in the current Office Action by Examiner Garcia. MPEP 706.04 acknowledges the USPTO's position towards giving full faith and credit of the previous actions of a previously assigned examiner.

Some questions and grounds for rejection in the present Office Action re-open or re-argue grounds which were previously overcome and withdrawn during earlier prosecution, and which were not issues on Appeal.

Further, the USPTO's policy towards compact prosecution and the Patent Rules require that the first Office Action on the merits address all existing issues in the patent application as filed (emphasis added by applicant):

§ 1.104 Nature of examination.**(a) Examiner's action.**

(1) On taking up an application for examination or a patent in a reexamination proceeding, the examiner shall make a thorough study thereof and shall make a thorough investigation of the available prior art relating to the subject matter of the claimed invention. **The examination**

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shall be complete with respect both to compliance of the application or patent under reexamination with the applicable statutes and rules and to the patentability of the invention as claimed, as well as with respect to matters of form, unless otherwise indicated.

...

(b) Completeness of examiner's action.

The examiner's action will be complete as to all matters, except that in appropriate circumstances, such as misjoinder of invention, fundamental defects in the application, and the like, the action of the examiner may be limited to such matters before further action is made. However, matters of form need not be raised by the examiner until a claim is found allowable.

A number of the objections or rejections raised in the present, fifth Office Action, are directed towards portions of the disclosure and claims which were not rejected or objected to in the previous four Office Actions.

Applicant respectfully requests that examination of this application continue upon a linear path from the actions of the previous examiner, in accordance with MPEP 706.04 and 37 C.F.R. § 1.104(a) and (b). Applicant's right to Petition, Appeal, or both, as appropriate, on these bases is hereby reserved.

Objections to the Drawings

In the Office Action, new objections to the drawings were made for not showing the claimed features of:

- (a) two computer-readable repositories;
- (b) the offer description creator; and
- (c) the offer list creator.

In the previous four Office Actions, no objections to the figures for missing these claimed features were made by Primary Examiner Nicholson. These features were present in the claims as originally filed, and thus were subject to consideration by Primary Examiner Nicholson and are part of the original disclosure. Applicant requests reconsideration of the objections

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consistent with and giving full faith and credit to the previous examiner's position (MPEP 706.04), and in recognition of the fact that the first Office Action was complete and thorough, as required by 37 C.F.R. § 1.104(a) and (b).

Additionally, Applicant submits that these items are indeed shown in the Figures, as required by 37 CFR §1.83(a) (emphasis added by applicant), as conventional features may be represented without details using a graphical drawing symbol:

§ 1.83 Content of drawing.

(a) The drawing in a nonprovisional application must show every feature of the invention specified in the claims. **However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation** (e.g., a labeled rectangular box). In addition, tables and sequence listings that are included in the specification are, except for applications filed under 35 U.S.C. 371, not permitted to be included in the drawings.

With respect to showing in a figure the feature of "two computer-readable repositories", Figure 3 shows three databases (#62, #60, #609), and figure 4 shows two databases (#60, #609), using the well-known iconic "soup can" representation for a database or database server (e.g. a computer running a program for allowing access to and management database contents).

With respect to showing in a figure the feature of "the offer description creator", Figure 3 shows a single-headed arrow flowing from the SPS (#60) to the trader console (#61) which represents (and is clearly labeled) "part numbers, links to descriptive information, descriptive information data items". The information represented by this arrow is produced by the SPS (#60) responsive the trader's request for up-to-date catalog information in order to prepare an offer (pg. 14 lines 10 - 20). Thus, the functionality shown in the graphical icon for an SPS, as described, is in part an "offer description creator". Figure 4 concurs with this process, showing in more detail that in Phase 1 the SPS (#60) loads item information (#70), and supplies the most current information responsive to a trader request (#73, #74) in Phase 2, following which this information is captured into the offer (75) in Phase 3.

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With respect to showing in a figure the feature of an "offer list creator", Figure 3 shows the SPS (#60) which provides available materials lists containing manufacturer identifiers and part numbers (pg. 11, lines 11 - 16). The SPS is disclosed in one embodiment as being a Lotus Notes System, which is generally known to those skilled in the art as a computer system running a specific database program product produced by Lotus, a division of IBM.

Block diagram symbols such as these, when combined with suitable disclosure and/or flowcharts, such as our disclosure and Figure 4, are acceptable and enabling for computer-related inventions, as set forth in MPEP 2106.02.

For these reasons, Applicant request withdrawal of the objections to the Figures, and approval of the figures as filed.

Objections to the Specification

In the Office Action, objections to the specification were made for:

- (a) failing to provide antecedent basis for the claimed feature or limitation of "repositories of information sets" (claim 1);
- (b) failing to provide antecedent basis for the claimed feature or limitation of "computer-readable repositories of descriptive data items" (claim 11);
- (c) failing to provide antecedent basis for the claimed feature or limitation of "offer description creator" (claim 14);
- (d) failing to provide antecedent basis for the claimed feature or limitation of "offer list creator" (claim 15); and
- (e) containing the Summary of Invention section after the Brief Description of the Drawings section.

In the previous four Office Actions, no objections to the specifications for missing these claimed features were made by Primary Examiner Nicholson. These features were present in the claims as originally filed, and thus were subject to consideration by Primary Examiner Nicholson and are part of the original disclosure. Applicant requests reconsideration of the objections consistent with and giving full faith and credit to the previous examiner's position (MPEP 706.04), and in recognition of the fact that the first Office Action was complete and thorough, as required by 37 C.F.R. § 1.104(a) and (b).

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Additionally, Applicant submits that these terms have proper antecedent bases in the disclosure as follows:

- (a) “repositories of information sets”, as used in Claim 1, refers to portions of electronic catalogs (see claim 1 preamble), wherein each information set contains electronic information for products available for bid or purchase including descriptive and illustrative data items for those products, as set forth in the disclosure as “descriptive information” (pg. 8 lines 2 - 20; pg. 11 lines 17 - 19; etc.), and wherein the term “repository” refers to electronic repositories (e.g. it is a repository of information sets which are electronic catalogs), consistent with the term as used widely in the art, evidenced by the definition provided by the Information Technology reference website <http://www.whatis.com>:

repository In information technology, a repository (pronounced ree-PAHZ-ih-tor-i) is a central place in which an aggregation of data is kept and maintained in an organized way, usually in computer storage. The term is from the Latin repositum, a vessel or chamber in which things can be placed, and it can mean a place where things are collected. Depending on how the term is used, a repository may be directly accessible to users or may be a place from which specific databases, files, or documents are obtained for further relocation or distribution in a network. A repository may be just the aggregation of data itself into some accessible place of storage or it may also imply some ability to selectively extract data. Related terms are data warehouse and data mining. (Source: <http://www.whatis.com>)

- (b) “computer-readable repositories of descriptive data items”, as used in Claim 11, refers to electronic storage of electronic information about products and services available for bid, as previously described in (a) regarding “repositories of information sets”;

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- (c) "offer description creator", as used in claim 14, refers to the function of the SPS which produces up-to-date product description information from the multiple repositories responsive to a trader's request, during the 3-phase process of preparing an offer, as previously described in the Applicant's remarks regarding the objection to the figures for not showing the feature of "the offer description creator"; and
- (d) "offer list creator", as used in claim 15, refers to the function of the SPS which produces a list of available products or services which an trader may offer up for bid, as previously described in the Applicant's remarks regarding the objection to the figures for not showing the feature of "offer list creator".

With respect to the objection to the specification for containing the Summary of Invention section after the Brief Description of the Drawings section, the order requested by the examiner is not required by law or rule, but instead is a preferred order as suggested by the guidelines set forth by the MPEP (emphasis added by applicant):

601 Content of Provisional and Non-provisional Applications
[R-3]

...

**I. GUIDELINES FOR DRAFTING A NONPROVISIONAL
PATENT APPLICATION UNDER 35 U.S.C. 111(a)**

The following **guidelines** illustrate the **preferred** layout and content of patent applications filed under 35 U.S.C. 111(a). These guidelines are **suggested for the applicant's use.**

...

Arrangement and Contents of the Specification

The following order of arrangement is **preferable** in framing the specification.

- (A) Title of the invention.
(B) Cross-reference to related applications.

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- (C) Statement regarding federally sponsored research or development.
- (D) The names of the parties to a joint research agreement.
- (E) Reference to a "Sequence Listing," a table, or a computer program listing appendix ...
- (F) Background of the invention.
- ...
- (G) Brief summary of the invention.
- (H) Brief description of the several views of the drawing.
- (I) Detailed description of the invention.
- (J) Claim(s) (commencing on a separate sheet).
- (K) Abstract of the Disclosure (commencing on a separate sheet).
- (L) Sequence Listing.

Additionally, applicant's section order was present in the initial disclosure, which was subject to the complete and thorough examination in the first Office Action per 37 C.F.R. § 1.104(a) and (b), but which was not found objectionable in the first Office Action. Applicant requests reconsideration of this objection consistent with and giving full faith and credit to the previous examiner's position (MPEP 706.04).

Claim Objections

In the Office Action, objections to issues of formality were made for claims 1, 4, 6, and 11. For the purposes of this reply, applicant assumes that the line references in the reational for the objections refer to the line numbers as they appeared in the second Appeal Brief.

With respect to amending line 5 of claim 1 to read "at least two or more repositories", the addition of "or more" is redundant with the meaning of "at least two", especially in consideration of the open claim form using the transitional word "comprising". The present amendment deletes "two or more" from line 12.

With respect to replacing "the" with "all" and inserting "the" in line 12, the examiner's suggestion has been adopted in the present amendment.

With respect to the objection to Claim 4 and deleting "said" in line 4, the examiner's suggestion has been adopted in the present amendment.

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With respect to the objection to Claim 6, applicant's response to the objection to Claim 1 above apply.

With respect to the objection to Claim 11, appropriate corrections have been made to clarify the claim language.

Rejections of Claims under 35 USC §112, First Paragraph

In the Office Action, it is stated that Claims 1 - 10 were rejected under 35 USC §112, first paragraph, (see line 13 of pg. 5 of the Office Action), but then goes forth to explain rejections of claims 1, 6, 11 (see line 18 of the Office Action). For the purposes of this reply, applicant assumes that the rejection under 35 USC §112, first paragraph, applies to claims 1, 6, and 11.

- (1) Regarding the basis for these rejections for reciting two or more repositories of information sets and data items indexed to product part numbers (pg. 5 line 18 - pg. 6 line 3 of the Action), but that only one database indexed to part numbers, e.g. the SPS database, is disclosed, Applicant has amended Claims 1, 6, and 11 to specify that at least one of which databases is indexed to part numbers. The disclosure sets forth a preferred embodiment in which a Lotus Notes system is employed, which is known and understood in the art to generically implement one or more databases, where information sets can be stored equally well in one physical database, or managed as if they were contained in one database but actually stored across multiple databases (e.g. one logical database aggregated from multiple actual databases).
- (2) Regarding the basis for these rejections for lacking support in the disclosure for "market identifiers", where the disclosure only discloses "manufacturer identifier", regarding recitation of "dynamically linking" information sets to "part numbers", and regarding the assertion by the Examiner that "market identifiers" are different from "manufacturer identifiers", by "market identifiers", we meant "part numbers" or "item numbers" normally assigned by manufacturers to identify their products and services which would be used to "market" products or

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services to brokers, bidders, etc., as disclosed (emphasis added by applicant):

A particular **part number** or **item number** may be represented by multiple sets of information, such as several descriptions in different languages, several different prices, or even different photographs suitable for **marketing to brokers, bidders or shopper of varying demographics**. (Pg. 12, lines 15 - 18)

Claims 1, 6, and 11 have been amended to specify indexing and linking to "manufacturer identifier and item number" and to remove "market identifiers".

- (3) Regarding the basis for these rejections for lacking support of dynamically linking using a synchronization script or program, and the argument that only one step of synchronization is described in our Phase 2, this citation from Applicant's disclosure is taken from the summary of the invention, not the detailed description. While 37 CFR 1.73 requires that when a summary of the invention is provided that it should be commensurate with the claimed invention, it does not allow for scope limitations to be implied from the language of the summary.

As such, it is improper to imply from the language of the summary that only one synchronization step is performed, or that dynamic linking is performed only by a first step of synchronization. We have disclosed that our preferred embodiment enhances the automatic synchronization functions of Lotus Notes to update the dynamic links to descriptive information, but that alternatively a separate synchronization script or can be utilized, as well (see pg. 13 lines 10 - 13 for synchronizing during our Phase 2, and see pg. 13 lines 14 - 19 for synchronizing during our Phase 3).

For these reasons, the claims are supported by the disclosure. Applicant requests withdrawal of the rejections over 35 USC §112, first paragraph.

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Rejections of Claims under 35 USC §112, Second Paragraph

In the Office Action, Claims 1 - 13 were rejected under 35 USC §112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In general, the many newly posed questions in the rationale for these rejections regarding clarity of terms and limitations appears to stem from the different point of view and approach being employed by the second examiner in this case, as these questions are of such a fundamental nature that if such lack of clarity existed in the mind of the first examiner, it would have been expected to be the subject of objections or rejections in the first, comprehensive Office Action.

It should be noted that no rejections under 35 USC §112, second paragraph, were made in the first Office Action, but that rejections under 35 USC §112, second paragraph, made in the Office Action dated 10/7/2004 reopening prosecution after the first Appeal were apparently withdrawn in the Office Action dated 2/17/2005 in view of the clarifying amendment filed by applicant on 01/07/2005.

With respect to the question as to "where" the two repositories are provided, to whom they are provided, and if they can be provided on paper, those skilled in the art of information technology would be free to provide two repositories in any "location" they wish using available networking technologies, as the invention is not dependent on co-located computer resources. With respect to providing such a repository on paper, examiner has not shown how or where this confusion of the term, when used in the context of a database and computerized cataloging system, would arise. There is no evidence provided by the examiner that those skilled in the relevant arts would use the term "repository" to refer to a paper-based collection of data items. As such, the cited step, elements, and limitations are clearly set forth as required by 35 USC §112, second paragraph, and the initial burden to factually support a rejection under this paragraph have not been met.

With respect to the question as to the recited limitation of "upon request by a trader", and with respect to the question as to whether or not the subsequent conditionally-performed step produces a tangible and concrete result, this rationale seems to be a mixed approach of distinct

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claiming per §112 second paragraph, and statutory patentability per §101. However, both questions are easily answered:

- (a) The step of "synchronizing contents of a Sales Preparation System" is performed conditionally upon the receipt of a request by from a trader. The subsequently listed steps in Claim 1 refer to this conditionally-performed step, and thus are conditional themselves. For example, the step of "promoting said synchronized Sales Preparation System contents" refers to "said Sales Preparation System contents" which would not exist if the step of "synchronizing contents of a Sales Preparation System" were not performed previously. Likewise, the next step of "presenting said promoted contents" refers to "said promoted contents", which would not have been promoted if the step of "synchronizing contents of a Sales Preparation System" were not performed previously.
- (b) The output or result of the final step, "presenting said promoted contents to one or more online bidders via said online auction system" necessarily means presenting the output to a human in a tangible form, such as on the display of a trader's console as described in the specification. Such a display is a tangible, concrete, and useful result.

With respect to the question of whether or not a Sales Preparation System is something physical, a program, or a database, it is typically all of these things. It is a physical collection of computer resources (e.g. CPU's, power supplies, human interface devices, etc.), running a particular set of programs (Lotus Servers, Oracle Servers, etc.), and utilizing certain data repositories, as described in our specification (pg. 9 line 2 - pg. 10 line 9). We have described at least one SPS embodiment which incorporates the well known Lotus Notes system, which in itself is a system executed by one or more computers using one or more programs to manage one or more databases or repositories (pg. 11 lines 11 - 16). Additionally, an SPS and its functionality is described, including example operations, as a system which allows traders to prepare offerings to be made on electronic auction and bidding systems (pg. 4 line 18 - pg. 5 line 15).

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With respect to the question of how the synchronization script dynamically links information sets and data items to part numbers, creation and operation of links, such as hyperlinks, is known in the art, as evidenced by US Pat. No. 5,303,379 to Khoyi, cited by the Examiner Nicholson in the first Office Action of 5/27/2003. The term "dynamically linked information" is well understood in the art as information which has links associated between the information, the links being of a temporary or reassignable nature (e.g. not statically linked), such as a modifiable hyperlink. A Google search on the term "dynamically linked information", for example, returns quite a few examples of the term being used by others to described such information.

With respect to the question regarding whether linking and synchronization are the same, it is well known in the art that linking and synchronization are different operations (source: <http://www.whatis.com>):

link

1) Using hypertext, a link is a selectable connection from one word, picture, or information object to another. In a multimedia environment such as the World Wide Web, such objects can include sound and motion video sequences. The most common form of link is the highlighted word or picture that can be selected by the user (with a mouse or in some other fashion), resulting in the immediate delivery and view of another file. The highlighted object is referred to as an anchor. The anchor reference and the object referred to constitute a hypertext link.

Although most links do not offer the user a choice of types of link, it would be possible for the user to be provided a choice of link types, such as: a definition of the object, an example of it, a picture of it, a smaller or larger picture of it, and so forth.

...

Webopedia (source <http://www.webopedia.com>) provides another useful explanation as evidence of what is known in the art regarding databases, database systems, and linking information in databases:

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database

(1) Often abbreviated DB. A collection of information organized in such a way that a computer program can quickly select desired pieces of data. You can think of a database as an electronic filing system.

Traditional databases are organized by fields, records, and files. A field is a single piece of information; a record is one complete set of fields; and a file is a collection of records. For example, a telephone book is analogous to a file. It contains a list of records, each of which consists of three fields: name, address, and telephone number.

An alternative concept in database design is known as Hypertext. In a Hypertext database, any object, whether it be a piece of text, a picture, or a film, can be linked to any other object. Hypertext databases are particularly useful for organizing large amounts of disparate information, but they are not designed for numerical analysis.

To access information from a database, you need a database management system (DBMS). This is a collection of programs that enables you to enter, organize, and select data in a database.

(2) Increasingly, the term database is used as shorthand for database management system.

By contrast, synchronization of two or more information sets, such as databases, typically means to copy and/or replace information between the sets so that they contain identical information (e.g. the information is contained in the set, not just pointed to by the links in the set). For example, Wikipedia (source: <http://www.wikipedia.com>) explains file synchronization as follows (emphasis added by application):

File Synchronization

File Synchronization in computing is the process of making sure that two or more locations contain the same up-to-date information. If you add, change, or delete a file

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from one location, the synchronization process will add, change, or delete the same file from the other location.

File Synchronization can be one-way or two-way. In one-way sync, files are copied only from a primary location (source) to a secondary location (target) in one direction, but no files are ever copied back to the primary location. In two-way sync, files are copied in both directions, keeping the two locations in sync with each other.

Another source, SearchDomino (source: <http://www.searchdomino.techtarget.com>) explains Lotus database synchronization as follows (emphasis added by application):

Lotus Notes/Domino replication: A primer for administrators

...

Replication is the process of synchronizing more than one copy of a Notes database. The two (or more) copies might be on different servers, or they might be on a personal computer and a server. Synchronization means that each copy of the database gets the same data.

As such, in the art, the terms "synchronize" and "link" are not synonymous. In our claims, we have claimed an enhanced synchronization process which ensures that where data sets include *links* to other sources, those links are dynamically updated in all data sets to point to the same sources (e.g. the *links* within the databases are synchronized, so to speak).

Regarding the question about whether the limitations of Claims' 2 and 3, and presumably Claims 7 and 8 as well, apply to the first or second step of synchronization, the second step was specified in conditional manner which would be difficult, if not impossible, to combine further with the limitations of Claims 2 and 3. However, to clarify this, we have amended claims 2, 3, 7, and 8.

Regarding the question about Claims 5 and 10 of how saving a copy of an information set statically links the copy to the most recently created data items, and where the copy is saved, this

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claim is intended to cover the additional step of copying the updated information set into the offering system in a manner in which the dynamic links (e.g. the changeable links) are converted to static links (e.g. unchangeable links), such as the step describe at pg. 14 lines 17 - 20. For example, a dynamic link would be a pointer or hyperlink value contained in a variable associated with a particular field and attribute in a database, where a static link would be a hyperlink contained in an HTML page.

Regarding the questions about the metes and bounds of Claim 11, where certain repositories reside, if they are physical or electronic, whether or not a computer readable medium is implied, please refer to the previous remarks regarding the meanings of repositories (e.g. computer databases, computer files, computer memories, etc.), and databases (such as Lotus or Oracle database systems including their server computers). Additionally, please refer to our disclosure regarding the customizable or scriptable nature of such database systems, wherein the specific logical components may be realized in some embodiments of the invention (pg. 9 lines 10 - 18, pg. 13 lines 10 - 14).

Regarding the questions about how Claims 12 and 13 further limit the scope of Claim 11, they further specify the operation of establishing the dynamic links at a predetermined time or responsive to a predetermined event, respectively. For example, the term predetermined time is broader than on a periodic basis, as the former may include a single time instance. Likewise, the term predetermined event is broader than the event of receiving a request for information from the repositories, such as a backup event or re-booting of the server event. Inclusion of Claims 12 and 13 will imply, by the doctrine of claim differentiation, greater breadth of the terms in Claim 11.

For these reasons, withdrawal of the rejections under 35 USC §112, Second Paragraph, is requested.

Rejections under 35 USC §102(b)

In the Office Action, rejections of claims 1 - 15 over Perkowski were maintained, and explained somewhat differently than from the rationale set forth in the Office Action dated 2/17/2006, the rejections of which were appealed. All previous arguments by applicant

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regarding Perkowski in previous Office Actions are maintained in the present reply.

The overall operation of Perkowski, however, is that their links are created and updated manually, not automatically as we have claimed using our synchronization scripts. Further, Perkowski discloses normal database synchronization operations (e.g. copying data between databases), but does not disclose updating links within those databases in the manner we have disclosed and claimed.

Perkowski provides a system in which the "links" between information items in a catalog are updated manually, such as by system administrators (e.g. Perkowski para. 0496 states dynamic changes in relationships are "carried out by a system administrator or manager"). Perkowski discloses "conventional data synchronization techniques" (para. 00437) which copy items (e.g. "import") from one database to another such that all databases contain the same information after synchronization (para. 0840 where data items are "imported" during synchronization). A "conventional" definition of "data synchronization" can be found at database ITToolBox.com, for example:

Database Administration > Merging/Synchronizing

...

Sub-topic definition: Merging or synchronizing data includes collecting and combining records from individual databases and transferring them into one master database from which all the data can be retrieved.

(Source: <http://www.http://database.ittoolbox.com/nav/t.asp?t=445&p=445&hl=445>)

As such, the links of the Perkowski '392 system and method are relatively static in nature until manually modified, changed or updated, or until information is copied from each database to each other database.

Our system, by contrast, is transactional in nature, wherein the links between databases are updated in real time or on-demand (e.g. our definition of "dynamically") either in response to a specific event, such as a trader requesting sales preparation information, or upon a certain update period. In other words, our system is event-driven and automated such that all catalog information is updated on-demand without the need for human link creation or modification, as disclosed especially at pg. 12 lines 20 - 22, pg. 13 lines 4 - 6 and lines 16 - 18 of our specification.

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Claims 1, 6, and 11 emphasize this definition of "dynamic" by reciting "by executing a synchronization script or program triggered at predetermined time or responsive to a predetermined event". Perkowski is silent as to such script triggering and execution *to modify links*.

For these reasons, withdrawal of the rejections and allowance of Claims 1 - 15 is requested.

Respectfully,

/ Robert Frantz /

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